

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

DEAMUS TROY CASTERLINE,	§	
Petitioner,	§	
	§	
VS.	§	C.A. NO. C-09-164
	§	
RICK THALER,	§	
Director, TDCJ-CID,	§	
Respondent.	§	

**ORDER DENYING WITHOUT PREJUDICE MOTION FOR
APPOINTMENT OF COUNSEL**

Petitioner is an inmate in the Texas Department of Criminal Justice - Institutional Division, and is currently incarcerated at the McConnell Unit in Beeville, Texas.

Proceeding *pro se*, petitioner filed a petition pursuant to 28 U.S.C. § 2254, challenging the execution of his life sentence for capital murder. A recommendation to deny his petition is pending (D.E. 26). Pending is petitioner's motion for appointment of counsel and affidavit in support (D.E. 47, 48).

There is no constitutional right to counsel in federal habeas proceedings. *Johnson v. Hargett*, 978 F.2d 855 (5th Cir. 1992). Rule 8 of the Rules Governing § 2254 Cases requires that counsel be appointed if the habeas petition raises issues which mandate an evidentiary hearing. The recommendation pending before the District Court is to deny the petition without an evidentiary hearing; therefore appointment of counsel at this time is unnecessary.

Counsel will be assigned *sua sponte* if there are issues which mandate an evidentiary hearing. Moreover, counsel may be assigned if discovery is ordered and issues necessitating the assignment of counsel are evident. Rule 6(a) of the Rules Governing § 2254 Cases; *Thomas v. Scott*, 47 F.3d 713, 715 n. 1 (5th Cir. 1995). There are no issues in this case which necessitate the appointment of counsel. Petitioner was granted *every* request for an extension of time which he requested, and his pleadings and briefings demonstrate that he is articulate and he was able to conduct significant legal research.

Accordingly, petitioner's motion for appointment of counsel (D.E. 47) is denied without prejudice.

ORDERED this 2nd day of September, 2010.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE